

**GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
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**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, 6th January, 2020

Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2020

IBBI/2019-20/GN/REG053. - In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, namely: -

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2020.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 2, in sub-regulation (1), after clause (c), the following clause shall be inserted, namely: -
‘(ca) “Corporate Liquidation Account” means the Corporate Liquidation Account operated and maintained by the Board under regulation 46;’.
3. In the principal regulations, in regulation 2B, in sub-regulation (1), the following proviso shall be inserted, namely: -
“Provided that a person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the corporate debtor, shall not be a party in any manner to such compromise or arrangement.”.
4. In the principal regulations, in regulation 6, in sub-regulation (2), for clause (q), the following clause shall be substituted, namely:-
“(q) Register of unclaimed dividends and undistributed proceeds; and”.
5. In the principal regulations, in regulation 21A, for sub-regulation (2), the following sub-regulations shall be substituted, namely: -
“(2) Where a secured creditor proceeds to realise its security interest, it shall pay -
(a) as much towards the amount payable under clause (a) and sub-clause (i) of clause (b) of sub-section (1) of section 53, as it would have shared in case it had relinquished the security interest, to the liquidator within ninety days from the liquidation commencement date; and
(b) the excess of the realised value of the asset, which is subject to security interest, over the amount of his claims admitted, to the liquidator within one hundred and eighty days from the liquidation commencement date:

Provided that where the amount payable under this sub-regulation is not certain by the date the amount is payable under this sub-regulation, the secured creditor shall pay the amount, as estimated by the liquidator:

Provided further that any difference between the amount payable under this sub-regulation and the amount paid under the first proviso shall be made good by the secured creditor or the liquidator, as the case may be, as soon as the amount payable under this sub-regulation is certain and so informed by the liquidator.

(3) Where a secured creditor fails to comply with sub-regulation (2), the asset, which is subject to security interest, shall become part of the liquidation estate.”.

6. In the principal regulations, in regulation 37, after sub-regulation (7), the following sub-regulation shall be inserted, namely: -

“(8) A secured creditor shall not sell or transfer an asset, which is subject to security interest, to any person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the corporate debtor.”.

7. In the principal regulations, for regulation 46, the following regulation shall be substituted, namely: -

“46. Corporate Liquidation Account.

(1) The Board shall operate and maintain an Account to be called the Corporate Liquidation Account in the Public Accounts of India:

Provided that until the Corporate Liquidation Account is operated as part of the Public Accounts of India, the Board shall open a separate bank account with a scheduled bank for the purposes of this regulation.

(2) A liquidator shall deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon till the date of deposit into the Corporate Liquidation Account before he submits an application under sub-regulation (3) of regulation 45.

(3) A liquidator, who holds any amount of unclaimed dividends or undistributed proceeds in a liquidation process on the date of commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2020, shall deposit the same within fifteen days of the date of such commencement, along with any income earned thereon till the date of deposit.

(4) A liquidator, who fails to deposit any amount into the Corporate Liquidation Account under this regulation, shall deposit the same along with interest thereon at the rate of twelve percent per annum from the due date of deposit till the date of deposit.

(5) A liquidator shall submit to the authority with which the corporate debtor is registered and the Board, the evidence of deposit of the amount into the Corporate Liquidation Account under this regulation, and a statement in Form-I setting forth the nature of the amount deposited into the Corporate Liquidation Account, and the names and last known addresses of the stakeholders entitled to receive the unclaimed dividends or undistributed proceeds.

(6) The liquidator shall be entitled to a receipt from the Board for any amount deposited into the Corporate Liquidation Account under this regulation.

(7) A stakeholder, who claims to be entitled to any amount deposited into the Corporate Liquidation Account, may apply to the Board in Form J for an order for withdrawal of the amount:

Provided that if any other person other than the stakeholder claims to be entitled to any amount deposited into the Corporate Liquidation Account, he shall submit evidence to satisfy the Board that he is so entitled.

(8) The Board may, if satisfied that the stakeholder or any other person referred to under sub-regulation (7) is entitled to withdrawal of any amount from the Corporate Liquidation Account, make an order for the same in favour of that stakeholder or that other person.

(9) The Board shall maintain a corporate debtor-wise ledger of the amount deposited into and the amount withdrawn from the Corporate Liquidation Account under this regulation.

(10) The Board shall nominate an officer of the level of Executive Director of the Board as the custodian of the Corporate Liquidation Account and no proceeds shall be withdrawn without his approval.

(11) The Board shall maintain proper accounts of the Corporate Liquidation Account and get the same audited annually.

(12) The audit report along with the statement of accounts of the Corporate Liquidation Account referred to in sub-regulation (11) shall be placed before the Governing Board and shall be forwarded to the Central Government.

(13) Any amount deposited into the Corporate Liquidation Account in pursuance of this regulation, which remains unclaimed or undistributed for a period of fifteen years from the date of order of dissolution of the corporate debtor and any amount of income or interest received or earned in the Corporate Liquidation Account shall be transferred to the Consolidated Fund of India.”.

8. In the principal regulations, in regulation 47, in the Table, for serial number 20 and the entries thereto, the following shall be substituted, namely:-

Sl. No.	Section / Regulation	Description of Task	Norm	Latest Timeline (Days)
(1)	(2)	(3)	(4)	(5)
“20	Reg. 46	Deposit the amount of unclaimed dividends and undistributed proceeds	Before submission of application under sub-regulation (3) of regulation 45”	

9. In the principal regulations, in Schedule II,-

(a) in Form H, in paragraph 2, in the Table, for serial numbers 44, 45 and 46 and entries thereto, the following shall be substituted, namely:-

Sl. No.	Particulars	Description
(1)	(2)	(3)
“44	Date of deposit of unclaimed dividends or undistributed proceeds and income and interest thereon, if any, under sub-regulations (2), (3) or (4) of regulation 46	
45	Amount deposited into Corporate Liquidation Account: (a) Amount of unclaimed dividends (b) Amount of undistributed proceeds (c) Income referred to in sub-regulation (2) and (3) of regulation 46 (d) Interest referred to in sub-regulation (4) of regulation 46 Total	
46	Date of submission to the Board and the Authority under sub-regulation (5) of regulation 46”;	

(b) after Form H, the following forms shall be inserted, namely: -

“FORM -I
Deposit of Unclaimed Dividends and / or Undistributed Proceeds

[Under Regulation 46 (5) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016]

A. Details of Liquidation Process

Sl. No.	Description	Particulars
(1)	(2)	(3)
1	Name of the Corporate Debtor	
2	Identification Number of CD (CIN/DIN)	
3	CIRP Commencement Date	
4	Liquidation Commencement Date	
5	Date of Deposit into the Corporate Liquidation Account	
6	Amount deposited into the Corporate Liquidation Account (Rs.)	
7	Bank Account from which the amount is transferred to Corporate Liquidation Account (a) Account No: (b) Name of Bank: (c) IFSC: (d) MICR: (e) Address of Branch of the Bank:	
8	Details of the Amount (Rs.) deposited into Corporate Liquidation Account (a) Unclaimed dividends (b) Undistributed proceeds (c) Income earned till the due date of deposit (d) Interest at the rate of twelve per cent on the amount retained beyond due date (Please show computation of interest amount) Total	

B. Details of Stakeholders entitled to Unclaimed Dividends or Undistributed Proceeds

Sl. No.	Name of stakeholder entitled to receive unclaimed dividends or undistributed proceeds	Address, phone number and email address of the stakeholder	Identification Number of the stakeholder (PAN, CIN, Aadhar No.) (Please attach Identification proof.)	Amount due to the stakeholder (Rs.)	Nature of Amount due	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1						
2						
3						

C. Details of Deposit made into the Corporate Liquidation Account

I (*Name of Liquidator*) have deposited Rs..... (Rupeesonly) into the Corporate Liquidation Account on vide acknowledgment no.. ... dated

I (*Name of Liquidator*) hereby certify that the details provided in this Form are true and correct to the best of my knowledge and belief, and nothing material has been concealed.

(Signature)

Name of the Liquidator

IP Registration No:

Address as registered with the Board:

Email id as registered with the Board:

Date:

Place:

FORM J**Withdrawal from Corporate Liquidation Account**

[Under Regulation 46 (7) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016]

Sl. No.	Description	Particulars
(1)	(2)	(3)
1	Name of the Corporate Debtor	
2	Identification Number of CD (CIN/DIN)	
3	CIRP Commencement Date	
4	Liquidation Commencement Date	
5	Date of Dissolution Order	
6	Date of Deposit into the Corporate Liquidation Account	
7	Name of the Stakeholder seeking withdrawal	
8	Identification Number of the Stakeholder (a) PAN (b) CIN (c) Aadhaar No.	
9	Address and Email Address of Stakeholder	
10	Amount of Claim of the Stakeholder, admitted by the Liquidator	
11	Amount of unclaimed dividends / undistributed proceeds deposited by the liquidator in the Corporate Liquidation Account against the stakeholder	
12	Amount of unclaimed dividends / undistributed proceeds the Stakeholder seeks to withdraw from the Corporate Liquidation Account	
13	Bank Account to which the amount is to be transferred from the Corporate Liquidation Account, if withdrawal is approved (a) Account No.: (b) Name of Bank: (c) IFSC: (d) MICR: (e) Address of Branch of the Bank:	
14	Reasons for not taking dividend or proceeds during the Liquidation Process	
15	Any legal disability in applying for withdrawal? (Yes / No), If yes, please provide details	

DECLARATION

I, [Name of stakeholder], currently residing at [insert address], hereby declare and state as follows:

1. I am entitled to receive a sum of Rs.... (Rupees ... only) from the Corporate Liquidation Account, as presented above.
2. In respect of the said sum or any part thereof, neither I nor any person, by my order, to my knowledge or belief, for my use, has received any manner of satisfaction or security whatsoever, save and except the following:
3. I undertake to refund the entire amount with interest as decided by the Board, in case the Board finds that I am not entitled to this amount.
4. I authorise the Board to initiate appropriate legal action against me if my claim is found false at any time.

Date:

Place:

(Signature of the Stakeholder)

VERIFICATION

I, [Name] the stakeholder hereinabove, do hereby verify that the contents of this Form are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of the Stakeholder)

[Note: In the case of a company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity].

10. In the principal regulations, in Schedule III,-

(a) in 'DISTRIBUTIONS REGISTER', under 'Instructions' in serial number 4, for the words "Public Account of India", the words "Corporate Liquidation Account" shall be substituted.

(b) in 'REGISTER OF UNCLAIMED DIVIDENDS AND UNDISTRIBUTED ASSETS DEPOSITED', for the word "ASSETS", the word "PROCEEDS" shall be substituted.

(Dr. M. S. Sahoo)

Chairperson

Insolvency and Bankruptcy Board of India

[ADVT]

Note: The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 were published *vide* notification No. IBBI/2016-17/GN/REG005 dated 15th December, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 460 on 15th December, 2016 and were subsequently amended by –

(1) The Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2018 published *vide* notification No. IBBI/2017-18/GN/REG028, dated the 27th March, 2018 in the Gazette of India, Extraordinary, Part III, Section 4, No. 122 on 28th March, 2018;

(2) The Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2018 published *vide* notification No. IBBI/2018-19/GN/REG037, dated the 22nd October, 2018 in the Gazette of India, Extraordinary, Part III, Section 4, No. 393 on 22nd October, 2018; and

(3) The Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 published *vide* notification No. IBBI/2019-20/GN/REG047, dated the 25th July, 2019 in the Gazette of India, Extraordinary, Part III, Section 4, No. 265 on 25th July, 2019.